

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, APRIL 24, 2007

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

Upon motion unanimously adopted, Council recessed at 9:30 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Allen, et al. v. City of San José et al.

By unanimous consent, Council recessed from the Closed Session at 10:42 a.m. and reconvened at 1:30 p.m. in the Council Chambers

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

INVOCATION

Dan Hoang, President of the Federation of Vietnamese Americans, commemorated the Fall of Saigon. (District 4)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Item 1.9 heard in the evening, Items 3.1, 3.5 and 3.7 deferred to May 1, 2007 and Item 8.1 was dropped (the protest was withdrawn). (10-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the 50th Anniversary Celebration Team (WPCP) for their exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)**

Action: Mayor Reed and City Manager Les White recognized and commended the 50th Anniversary Celebration Team for their outstanding dedication and important contributions to the City of San José.

- 1.3 Presentation of a commendation recognizing the achievement of the Berryessa Branch Library's Customer Service staff. (Library)**

Action: Deferred to May 8, 2007, per Administration.

- 1.5 Presentation of a commendation to Motor Masters Automotive, Salas O'Brien Engineers, Inc., Santa Clara County Council of Churches, Camden Community Center and KBAY/KZER Radio for achieving Green Business Certification and showing their exemplary commitment to protecting our environment. (Mayor/Liccardo/Chirco)**

Action: Mayor Reed and Council Members Liccardo and Chirco recognized and commended the Motor Masters Automotive, Salas O'Brien Engineers, Inc., Santa Clara County Council of Churches, Camden Community Center and KBAY/KZER Radio for achieving Green Business Certification and showing their outstanding commitment to protecting the environment.

- 1.6 Presentation of a commendation recognizing Public Works Property Acquisition and Property Asset Management Real Property Agents for their very important contributions to the City of San José. (Public Works)**

Action: Mayor Reed and Director of Public Works Katy Allen recognized and commended the Public Works Property Acquisition and Property Asset Management Real Property Agents for their very important contributions to the City of San José.

1.4 Presentation of a proclamation declaring April 30, 2007 El Dia de los Ninos/El Dia de los Libros. (Mayor/Campos)

Action: Mayor Reed and Council Member Campos recognized April 30, 2007 as “El Dia de los Ninos/El Dia de los Libros” in the City of San José. Mayor Reed presented the plaque to Library Director Jane Light.

**1.7 Presentation of a commendation to Bruno Figueroa, Consul General of Mexico, for his service to the City of San José upon his new appointment in France. (Campos/Nguyen/Liccardo)
(Rules Committee referral 4/18/07)**

Action: Mayor Reed and Council Members Campos, Nguyen and Liccardo recognized and commended Mr. Bruno Figueroa, Consul General of Mexico, for his service to the City of San José upon his new appointment in France.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Campos, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0.)

2.1 (b) Past Minutes

- (1) Regular Minutes of October 3, 2006**
- (2) Special Council Minutes of October 10, 2006**
- (3) Regular Minutes of October 17, 2006**
- (4) Regular Minutes of October 24, 2006**
- (5) Regular Minutes of October 31, 2006**
- (Deferred from 4/3/07 – Item 2.1 and 4/17/07 – Item 2.1)**

Documents Filed: (1) The Regular Minutes dated October 3, October 17, October 24 and October 31, 2006. (2) The Special Council Minutes dated October 10, 2006.

Action: The Minutes were approved. (10-0.)

**2.3 Request for excused absences for Council Member Campos from the City Council Budget Study Sessions on May 16 and May 17, 2007 due to Authorized City Business: League of CA Cities Board of Directors Meeting in Sacramento, CA. (Campos)
(Rules Committee referral 4/11/07)**

Documents Filed: Memorandum from Council Member Campos, dated April 10, 2007, requesting an excused absence.

Action: The request for excused absences from Council Member Campos for the Budget Study Sessions on May 16 and 17, 2007, was approved. (10-0.)

**2.4 Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending September 30, 2006. (City Auditor)
(Rules Committee referral 4/11/07)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated April 4, 2007, recommending acceptance of the findings reports from Kafoury, Armstrong & Company.

Action: The finding reports relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ended September 30, 2006, was accepted. (10-0.)

2.5 (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

- (1) Increase the estimate for Earned Revenue by \$186,000.**
- (2) Establish an appropriation to the Department of Public Works for the Park Avenue Streetscape Improvement Project (PSM #491) on the north side of Park Avenue near Market Street in the amount of \$186,000.**

- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Park Avenue Streetscape Improvement Project as more specifically described in the memorandum from the Redevelopment Agency, dated March 15, 2007.**

CEQA: Exempt, File No. PP07-061. Council District 3. (City Manager's Office/Public Works)

Documents Filed: Memorandum from Budget Director Larry Lisenbee and Director of Public Works Katy Allen, dated April 4, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and a resolution making certain determinations.

Action: [Ordinance No. 28020](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Park Avenue Streetscape Improvement Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73731](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund" and [Resolution No. 73732](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Merged Area Redevelopment Project Areas", were adopted. (10-0.)

- 2.6 Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Rules and Open Government Committee on April 11, 2007 due to Authorized City Business: Preparation and review of compliance documents, public calendar and income time and disclosure statement. (Cortese)**
(Rules Committee referral 4/11/07)

Documents Filed: Memorandum from Vice Mayor Cortese, dated April 10, 2007, requesting approval for an excused absence.

Action: The request from Vice Mayor Cortese for an excused absence from the Regular Meeting of the Rules and Open Government Committee on April 11, 2007, was approved. (10-0.)

- 2.7 Approval of a continuation agreement with Hargis & Associates for test development services for Police and Fire Department promotional examinations in an amount not to exceed \$32,950, for a total contract amount of \$127,950. CEQA: Not a Project. (Human Resources)**

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated April 4, 2007, recommending approval of a continuation agreement with Hargis & Associates.

Action: The continuation agreement with Hargis & Associates in an amount not to exceed \$32,950, for a total contract of \$127,950, was approved. (10-0.)

- 2.8 (a) Approval of an exception to following the procedures set forth in the Qualifications Based Consultant Selection Policy with regard to selecting Don Dommer Associates to provide architectural services for the Fire Station No. 19 Project.**
(b) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Don Dommer Associates for architectural consultant services for the Fire Station No. 19 Project, from the date of execution to June 30, 2009, in an amount not to exceed \$325,000.
CEQA: Exempt, PP06-116 (Fire Station No.19). Council District 4. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated April 4, 2007, recommending approval of an agreement with Don Dommer Associates for architectural consultant services and adoption of a resolution.

Action: The agreement with Don Dommer Associates for architectural consultant services was approved and [Resolution No. 73733](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Don Dommer Associates for the Fire Station No. 19 Project, in an Amount Not To Exceed \$325,000”, was adopted. (10-0.)

2.9 Adoption of a resolution approving the request to the Metropolitan Transportation Commission for the allocation of Fiscal Year 2007-2008 Transportation Development Act, Article 3 grant funding in the amount of \$566,510 and authorizing the City Manager to negotiate and execute grant documents. CEQA: Exempt, File No. PP07-062. (Transportation)

Documents Filed: Memorandum from Director of Transportation James Helmer, dated April 4, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73734](#), entitled: “A Resolution of the Council of the City of San José Approving the List of Proposed Projects to be Submitted for Fiscal Year 2007-20087 Transportation Development Act, Article 3 (TDA 3) Grant Funding to the Metropolitan Transportation Commission, and Authorizing the City Manager to Negotiate and Execute the Necessary Grant Documents to Effectuate the Grant in an Amount Not To Exceed \$566,510”, was adopted. (10-0.)

**2.10 Adoption of a resolution authorizing the Director of Finance to execute the first amendment to the agreement between the City of San José and Acme Building Maintenance for Custodial Service at the Norman Y. Mineta San José International Airport by correcting the insurance requirement for janitorial services and adding services resulting in an increase in compensation by \$180,000 from \$216,000 to a not-to-exceed amount of \$396,000 for the first year of the Agreement. CEQA: Not a Project. (Finance)
(Deferred from 4/17/07 – Item 2.6)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated March 26, 2007, recommending adoption of a resolution. (2) Supplemental memorandum from Director of Aviation William Sherry, dated April 19, 2007, clarifying information provided in the first two paragraphs of the memorandum dated March 26, 2007.

Council Member Liccardo pulled Item 2.10 from the Consent Calendar and inquired about work related disabilities and repetitive stress related injuries. Assistant Director of Aviation Frank Kirkbride replied additional information on this subject will be forthcoming via an information memorandum.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Nguyen and carried unanimously, [Resolution No. 73735](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a First Amendment to the Agreement with Acme Building Maintenance for Custodial Services at Norman Y. Mineta San José International Airport”, was adopted. (10-0.)

2.11 Adoption of a resolution authorizing the Director of Finance to:

- (a) **Execute an agreement with The Active Network Inc. in an amount not to exceed \$253,398 for the purchase and installation of an Integrated Cashiering System, including software, hardware, professional services, five years of maintenance and support, shipping, and applicable sales taxes.**
- (b) **Execute change orders not to exceed a 15% contingency amount of \$38,010 to cover unanticipated changes or requirements related to the design, implementation, maintenance and support of the system over a five-year period.**

CEQA: Not a Project. (Finance)

(Deferred from 4/10/07 – Item 2.11 and 4/17/07 – Item 2.8)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated March 231, 2007, recommending adoption of a resolution.

Council Member Oliverio asked Staff for information describing efficiencies and the return on the investment.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73736](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with the Active Network, Inc. for an Integrated Cashiering System”, was adopted, and Staff was directed to return with an information memorandum describing efficiencies and the return on the investment. (10-0.)

STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – April 4, 2007

Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to April 10, 2007 Agenda
 - (2) Review April 17, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
 - (1) Adopt Revised 2007-2008 City Budget Calendar and Budget Study Session Schedule. (City Manager’s Office)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Review of the Mexican Heritage Corporation’s Ability to Operate and Maintain Mexican Heritage Plaza. (Auditor’s Office)
 - (2) Approve Travel Requests. (Constant/Liccardo)

3.1 Report of the Rules and Open Government Committee – April 4, 2007 (Cont'd.)
Mayor Reed, Chair

- (h) Review of Council Committee Agendas
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (a) Acceptance of the proposed curriculum for a Council Assistant Certification Program per Reed Reform #25. (City Manager's Office/City Clerk/City Attorney)
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Records Act Requests
 - (a) Response to Public Records Act-Potential Soccer Stadium.
 - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

Action: Deferred to May 1, 2007, per Orders of the Day.

- 3.3**
- (a) **New comprehensive orientation program for all employees applying for supplemental military leave benefits, including a method to obtain customer feedback.**
 - (b) **Further improvements to the reconciliation process, including the overpayment and underpayment of supplemental military pay; and**
 - (c) **Information on pays that are included by City Council action, as well as those that have been excluded as a result of past Council actions.**

CEQA: Not a Project. (City Manager's Office)
(Deferred from 4/3/07 – Item 3.4)

Documents Filed: (1) Memorandum from Chief Deputy City Manager Kay Winer, dated March 7, 2007, recommending acceptance of the Staff Report on the Military Leave Program for City Employees. (2) Email from Pete Lovecchio, City Employee, dated April 1, 2007, regarding the Military Leave Program for City Employees.

Chief Deputy City Manager Kay Winer summarized the Military Leave Program for City Employees. Director of Finance Scott Johnson briefly outlined the status of reconciliations as of March 30, 2007.

Director of Employee Relations Alex Gurza and Director of Human Resources Mark Danaj responded to Council questions.

Council Member Liccardo asked that Staff consider creating a position for a Veteran Ombudsman at a later date.

Council Member Campos suggested that Staff report back to Council in one year about the new process. Chief Deputy City Manager Kay Winer replied that Staff will be reporting back in December 2007.

3.3 (Cont'd.)

Action: Upon motion by Council Member Constant, seconded by Council Member Campos and carried unanimously the Report on the Military Leave Program for City Employees was accepted, with Staff directed to: (1) Clarify the policy for the Reservists. (2) Report back to Council in December 2007. (3) For the future: explore options to create a Veteran Ombudsman. (10-0.)

3.4 Acceptance of the 2006 San José Employee Survey Report. CEQA: Not a Project. (Human Resources)

Documents Filed: Memorandum from Director of Human Resources Mark Danaj, dated April 4, 2007, recommending acceptance and transmitting the 2006 San José Employee Survey Report.

Performance Development Manager Brooke Myhre introduced Mr. David Betz, Fairbank, Maslin, Maullin and Associates who presented an overview of the City of San José 2006 Employee Survey and responded to Council questions.

Council Member Liccardo requested the statement “Employees in my work group display honesty and integrity in the work place” be clarified and broken into two sections. Mayor Reed requested that the questions relative to ethics and compare with measurements proposed by Michael Josephson be reviewed.

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the Report on the City of San José 2006 Employee Survey was accepted, with Staff directed to: (1) Clarify the statement “Employees in my work group display honesty and integrity in the work place” and break it into two sections. (2) Review the questions relative to ethics and compare with measurements proposed by Michael Josephson. (10-0.)

3.5 Report of the Rules and Open Government Committee – March 28, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review New Add Items to April 3, 2007 Agenda
 - (2) Review April 10, 2007 Draft Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) Acceptance of the March 2007 State Legislative Bill Matrix.
(Manager’s Office)
(Continued from 3/21/07)
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees

3.5 Report of the Rules and Open Government Committee – March 28, 2007 (Cont'd.)
Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (h) Review of Council Committee Agendas
 - (i) Open Government Initiatives
 - (1) Reed Reforms
 - (a) Acceptance of staff's proposed presentation on ethics to the Council in response to Reed Reform #26. (City Manager/City Attorney)
 - (2) Sunshine Reform Task Force
 - (a) Update on current proposals and outstanding issues for Phase 1 recommendations including requirements for: (1) Public meetings. (2) Closed Session. (3) Public information. (Sunshine Reform Task Force)
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (j) Open Forum
 - (k) Adjournment
- (Deferred from 4/17/07 – Item 3.1)

Action: Deferred to May 1, 2007, per Orders of the Day.

3.6 Adoption of a resolution in support of HR 359 (Solis), the Cesar Estrada Chavez Study Act. (Cortese)
[Rules Committee referral 4/18/07 – Item (C)(1)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated April 18, 2007, transmitting the recommendation of the Rules and Open Government Committee on April 18, 2007 of adoption of a resolution of support.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73737](#), entitled: "A Resolution of the Council of the City of San José Supporting HR359 (Solis), the Cesar Estrada Chavez Study Act", was adopted. (10-0.)

- 3.7**
- (a) **Approve a general set of "guiding principles" for the creation of programs related to Proposition 1C. Implementing legislation should allow the City of San José the opportunity to successfully compete for these future funds, which will help address the City's need for more housing, parks, and transit-oriented development; and**
 - (b) **The City Administration work closely with the California State Legislature on the development of enabling legislation for the four programs not yet defined under Proposition 1C once the guiding principles are approved.**
- (Housing)**
[Rules Committee referral 4/18/07 – Item(C)(1)(b)]

Action: Deferred to May 1, 2007, per Orders of the Day.

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community and Economic Development Committee – April 9, 2007 Council Member Pyle, Chair

Documents Filed: The Community and Economic Development Committee dated April 9, 2007.

- (a) Modifications to Committee Work Plan

The Committee accepted the Staff report.

- (b) Update on Council Directives and Performance Measures Review - No Report.

- (c) Downtown Business Strategy. Attachment: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes, dated March 28, 2007, recommending acceptance of the report.

The Committee accepted the Staff update.

- (d) International Business Strategy. Attachment: Memorandum from Director of Economic Development Paul Krutko, dated March 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff requested to amend the role of the Mayor's International Advisor to include assistance for Council Members, as well as the Mayor.

- (e) Changes to the Inclusionary Housing Policy in Redevelopment Areas

Deferred.

- (f) Report to LISC Working Group Study on Housing Needs. Attachment: Memorandum from Director of Housing Leslye Krutko, dated March 27, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (g) Coyote Valley Environmental Impact Report. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 26, 2007, recommending acceptance of the staff report.

The Committee accepted the Staff report.

- (h) Oral Petitions

Carrie Williams, Coyote Housing Group, thanked Staff for the hard work on the report.

**4.1 Report of the Community and Economic Development Committee – April 9, 2007
Council Member Pyle, Chair (Cont'd.)**

- (i) Adjournment - The meeting was adjourned at 3:35 p.m.

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Cortese and carried unanimously, the Community & Economic Development Committee Report and the actions of April 9, 2007, were accepted. (10-0.)

4.2 Consideration of an ordinance of the City of San José amending Title 23, the Sign Code, to modify Section 23.04.610 to increase the size and number of allowed temporary signs, shorten their display time, and require temporary signs to include specific information including display dates; to modify Section 23.04.030 to allow additional freestanding signage for parcels with long street frontages in specific commercial and industrial zoning districts and associated clarifying language; to modify Section 23.04.020(e)(1) to authorize small pedestrian-oriented signs for building arcades; to modify Section 23.04.020(e)(3) to allow slightly larger signs on gasoline service station canopies; to modify Section 23.04.120(k) to clarify the requirements for programmable display kiosks in the Downtown Sign Zone; and to modify Section 23.02.1010 to clarify that balloon signs are prohibited except where expressly allowed by the Sign Ordinance. CEQA: Negative Declaration, File No. PP07-043. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 4, 2007, recommending approval of an ordinance. (2) Proofs of Publications of Notices of Public Hearings, executed on March 25, 2007 and April 10, 2007, submitted by the City Clerk.

Senior Planner Carol Hamilton outlined the Proposed Sign Ordinance Amendments.

City Attorney Richard Doyle and Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions.

Council Member Constant expressed concern for the temporary sign standards, and added that banner signs are expensive and usually can only be used once. Council Member Campos stated that temporary signs have caused a lot of blight in District 5. Council Member Liccardo concurred with Council Members Campos and Constant.

Motion: Council Member Campos recommended approval of the Staff recommendation with direction to Staff to explore options for cost effective enforcement and compliance; and to report back to Council on the progress. Council Member Constant seconded the motion.

A short discussion followed.

Public Comment: Mark Trout spoke off topic.

4.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, [Ordinance No. 28022](#), entitled: “An Ordinance Of The City Of San José Amending Title 23 of the San José Municipal Code, The Sign Code, To Amend Chapters 23.02 and 23.04 by Adding Section 23.02.043 and Amending Section 23.04.020 to Provide for Regulation of Arcade Signs, by Amending Section 23.02.1010 and Section 23.04.120 to Clarify Restrictions on Inflatable or Balloon Signage, by Amending Section 23.04.020 to Amend Allowed Signage on Gasoline Service Station Canopies, by Amending Section 23.04.030 to Clarify Regulations Pertaining to Free Standing Signage Along Street Frontages, by Amending Section 23.04.120 to Clarify Regulations Pertaining to Kiosk Signs in the Downtown Sign Zone, by Amending Section 23.04.610 to Modify the Regulations Pertaining to Temporary Signs, and by Making Related Clarifying Changes”, was passed for publication, with Staff directed to: (1) Explore options for cost effective enforcement and compliance and (2) Report back to Council on the progress. (8-0-2. Absent: Pyle, Williams.)

NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee – April 12, 2007 Council Member Chirco, Chair

Documents Filed: The Neighborhood Services and Education Committee Report dated April 12, 2007.

(a) Committee Vision and Mission

The Committee accepted the verbal Staff report.

(b) Report on Library Cultural Crossroads Grant. Attachment: Memorandum from Library Director Jane Light, dated March 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

(c) Report on Progress of Homeless Initiatives. Attachment: Memorandum from Director of Housing Leslye Krutko, dated April 3, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

(d) Report on Community Development Block Grant Issues. Attachment: Memorandum from Director of Housing Leslye Krutko, dated April 3, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff directed to include information on any unused funds in the next report.

**5.1 Report of the Neighborhood Services and Education Committee – April 12, 2007
Council Member Chirco, Chair (Cont'd.0**

- (e) Strong Neighborhoods Monthly Update
 - (1) Neighborhoods Commission Plan Update. Attachment: Memorandum from Deputy City Manager Mark Linder, dated April 12, 2007, recommending acceptance of the report.

The Committee accepted the Staff update.

- (f) Anti-Graffiti/Anti-Litter Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated March 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff update.

- (g) Update on Blight Buster. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated March 29, 2007, recommending acceptance of the report.

The Committee accepted the Staff report with Staff directed to include the results of the three Strong Neighborhood pilot areas in the next report.

- (h) Report on ABAG Regional Needs Program. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel and Director of Housing Leslye Krutko, dated April 3, 2007, recommending acceptance of the report.

The Committee accepted the Staff report, with Staff directed to return to the Committee in August 2007 with a follow up report that includes information from ABAG, criteria for transit funding and input from the Department of Transportation.

- (i) School/City Collaborative Monthly Update (Verbal Report)

The Committee accepted the Staff report.

- (j) Monthly Updates on City Council Directives - There were none.

- (k) Oral Petitions - There were none.

- (l) Adjournment - The meeting was adjourned at 3:30 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Constant and carried unanimously, the Neighborhood Services and Education Committee Report and the actions of April 12, 2007, were accepted. (10-0.)

5.2 Acceptance of the report on the status of the reconciliation of the Park Trust Fund for Fiscal Year 2005-2006, and the first half of Fiscal Year 2006-2007, ending December 31, 2006. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated April 4, 2007, recommending acceptance of the report.

Action: Upon motion by Council Member Pyle, seconded by Council Member Constant and carried unanimously, the status of the reconciliation of the Park Trust Fund for Fiscal Year 2005-2006, and the first half of Fiscal Year 2006-2007, ending December 31, 2006, was accepted. (10-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) Approval of a consultant services agreement with URS Corporation for preparation of the North San José Grid Street System Master Plan, in an amount not to exceed \$421,754.**
- (b) Approval of a cooperative agreement with the Santa Clara Valley Transportation Authority (VTA) for the preparation of the Route 101 Corridor Implementation Plan from Zanker Road to McKee Road, including an extension of Zanker Road over Route 101, upgrades to the Oakland Road interchange, and a new interchange at Mabury Road, in an amount not to exceed \$1,250,000.**
- (c) Approval of a first amendment to the cooperative agreement with the VTA for the preparation of the preliminary engineering and environmental clearance to upgrade the Route 101 interchange at Trimble Road, increasing the original agreement amount by \$600,000 from \$100, 000 to an amount not to exceed \$700,000.**
- (d) Approval of a cooperative agreement with the VTA for the preparation of the preliminary engineering and environmental clearance to extend Charcot Avenue over Route 880, in an amount not to exceed \$800,000.**
- (e) Approval of the Deficiency Plan for the North San José area and recommending approval of the Deficiency Plan by the VTA.**
- (f) Adoption of the following Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:**
- (1) Establish an appropriation to the Department of Transportation for the Route 101/Oakland Road Interchange Upgrade Project, in the amount of \$522,000.**
- (2) Decrease Ending Fund Balance in the amount of \$522,000.**

CEQA: Resolution No. 72768. Council Districts 3 and 4. (Transportation/City Manager's Office)

Documents Filed: Memorandum from Director of Transportation James Helmer and Budget Director Larry Lisenbee, dated April 4, 2007, recommending approval of various agreements and actions and adoption of an ordinance.

6.2 (Cont'd.)

Deputy Director of Transportation Hans Larsen outlined the Vision for North San José and responded to Council questions.

Action: Upon motion by Council Member Liccardo, seconded by Vice Mayor Cortese and carried unanimously, the consultant services agreement with URS Corporation; the cooperative agreement with the Santa Clara Valley Transportation Authority; the first amendment to the cooperative agreement with the VTA for the preparation of the preliminary engineering and environmental clearance to upgrade the Route 101 interchange at Trimble Road; the cooperative agreement with the VTA for the preparation of the preliminary engineering and environmental clearance to extend Charcot Avenue over Route 880; the Deficiency Plan for the North San José area and the Deficiency Plan by the VTA were approved; [Ordinance No. 28023](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Building and Structure Construction Tax Fund for the Route 101/Oakland Road Interchange Upgrade Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption,” was adopted. (10-0.)

6.3 **Report on bids and take appropriate action based on the evaluation of bids for the Remove and Replace Asphalt Concrete Pavement 2007 Project. CEQA: Exempt, File No. PP04-039. (Transportation)**

Action: Deferred to May 1, 2007, per Administration.

6.4 **Report on bids and take appropriate action based on the evaluation of bids for the Street Resurfacing 2007 Backlog Reduction Project – Phase 1. CEQA: Exempt, PP06-066. Council Districts 1, 2, 3, 4, 5, 6, 7, 8 and 9. (Transportation)**

Action: Deferred to May 1, 2007, per Administration.

ENVIRONMENTAL & UTILITY SERVICES

7.1 **Approval of the master agreement with RMC Water and Environment for consultant services for the City’s Sanitary Sewer Master Plan (Capacity Assessment) Phase II and Updates Project from the date of execution to December 31, 2011, in a total amount not to exceed \$2,800,000. CEQA: Exempt, File No. PP06-195. (Public Works)**

Documents Filed: Replacement memorandum from Director of Public Works Katy Allen, dated April 4, 2007, reflecting the correct appropriation and RC numbers and recommending approval of the master agreement.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Williams and carried unanimously, the master agreement with RMC Water and Environment for consultant services for the City’s Sanitary Sewer Master Plan Phase II and Updates Project from the date of execution to December 31, 2011, in a total amount not to exceed \$2,800,000, was approved. (10-0.)

PUBLIC SAFETY SERVICES

- 8.1 (a) Administrative Hearing on consideration of staff's recommendation to grant the request of Gonsalves & Stronck Construction Company the general contractor on the new Fire Station No. 34 project, to substitute the subcontractor listed by G&S to perform the custom cabinet work, and adoption of a resolution setting forth the decision of the City Council.**
- (b) If the City Council approves the request for substitution, adoption of a resolution authorizing the Director of Public Works to approve the subcontractor to be substituted for California Woodworking once Gonsalves & Stronck Construction Company identifies a new subcontractor.**

CEQA: Mitigated Negative Declaration, File No. PP05-104. Council Districts 3 & 4. (Public Works)

(Deferred from 4/10/07 – Item 8.2)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated March 27, 2007, recommending approval of the request of Gonsalves & Stronck Construction Company. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated April 19, 2007, addressing new information submitted by the subcontractor, California Woodworking regarding recent developments.

Action: Under Orders of the Day, this item was dropped, protest withdrawn.

- 8.2 Request for Council direction to the City Attorney to draft an ordinance amending Title 16 of the San Jose Municipal Code in order to allow non-profit organizations to use controlled games for fundraisers at locations in the City other than Permitted Cardrooms consistent with the provisions of The Gambling Control Act that authorize nonprofit organizations to use controlled games for fundraisers. (Constant)**

Documents Filed: Memorandum from Council Members Constant and Liccardo, dated April 13, 2007, recommending direction to draft an ordinance.

Public Comments: Speaking in favor of the proposed ordinance: Pat Dando, San José Silicon Valley Chamber of Commerce, Charles Toeniskoetter, and Chuck Hoffman, Stroke Awareness Foundation.

Action: Upon motion by Council Member Constant, seconded by Council Member Liccardo and carried unanimously, the City Attorney was authorized to draft an ordinance amending Title 16 of the San Jose Municipal Code in order to allow non-profit organizations to use controlled games for fundraisers at locations in the City other than Permitted Cardrooms consistent with the provisions of The Gambling Control Act that authorize nonprofit organizations to use controlled games for fundraisers. (10-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9908	West side of South 10 th Street, 550 feet north of Burke Street	7	Provident Holdings & Investments, LLC	1 Lot / 12 Units	Industrial Condominiums

OPEN FORUM

- (1) Maria Cabrera expressed views on Immigration Reform.
- (2) Mark Trout presented religious points of view.
- (3) Robert Apgar voiced personal observations.
- (4) Timothy Fitzgerald presented views on the tragedy of VA Tech, homelessness and racial profiling.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:33 p.m.

RECESS/RECONVENE

The City Council recessed at 4:33 p.m. from the afternoon Council Session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Vacant: - Council District 4.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the below noted continuances and actions were taken as indicated. (10-1.)

CEREMONIAL ITEMS

- 1.8 Presentation of a commendation to the Volunteer Center of Silicon Valley in recognition of National Volunteer Month, and the Center's achievements to strengthen San José through the coordination of valued volunteer efforts. (Liccardo) (Rules Committee referral 4/18/07)**

Action: Mayor Reed and Council Member Liccardo recognized and commended Mr. Tim Quigley and the Volunteer Center of Silicon Valley for their achievements and in recognition of "National Volunteer Month" in the City of San José.

- 1.9 Presentation of a proclamation declaring the week of April 24 – May 1, 2007 as *Okayama Week* in the City of San José in recognition of the 50th anniversary of the San José – Okayama Sister City Relationship. (Mayor) (Rules Committee referral 4/18/07)**

Action: Mayor Reed recognized the week of April 24, 2007 through May 1, 2007 as "Okayama Week" in the City of San José in recognition of the 50th anniversary of the San José-Okayama Sister City Relationship. Mayor Reed also recognized Mr. Former Mayor Bob Door of San José in 1957 and Mr. Joe Hedge. Council Members Williams welcomed the Japanese visitors in their native language.

- 1.2 Presentation of a proclamation recognizing April 29th as Justice for Immigrant Children Day. (Cortese)**

Action: Mayor Reed and Vice Mayor Cortese recognized April 29, 2007 as "Justice for Immigrant Children Day" in the City of San José.

GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

- 10.1 Tentative approval of a General Plan amendment to change the Land Use/Transportation Diagram designation to add a Transit/Employment Residential (55+DU/AC) overlay on an approximately 30.4-acre site currently designated Industrial Park located on the westerly side of North First Street approximately 450 feet south of the intersection of North First Street and Rio Robles, east of the Guadalupe River, and north of the intersection of North First Street and Innovation Drive (3331 through 3475 North First Street). (WYSE Technology Investments, Inc. and Valley Transportation Authority, Owners/WYSE Technology Investments, Inc. and City of San José Staff, Applicants). The Director of Planning, Building and Code Enforcement and the Planning Commission recommended approval (7-0-0). CEQA: Resolution No. 72768, and Addenda thereto, File No. GP05-04-08. GP05-04-08 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-04-08, dated March 23, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 4, 2007, transmitting the Planning Commission recommendation.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Campos and carried unanimously, the public hearing was closed and the Staff/Planning Commission recommendation was tentatively approved. (10-0.)

END OF GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

10. GENERAL PLAN PUBLIC HEARINGS

10.2 Acceptance of Overview of the General Plan amendments in spring Hearing. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 12, 2007, recommending acceptance of the overview.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti provided a brief overview of the General Plan Amendments in Spring Hearing.

Action: The Overview of the General Plan Amendments in Spring Hearing was heard by Council.

10.3 Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Industrial Park with Mixed Industrial Overlay to Combined Industrial/Commercial on an approximately 15.6-acre site located on the north side of Ridder Park Drive, bounded by Interstate 880 and Brokaw Road, west of Coyote Creek (Sand Hill Property Company, Owner/Metropolitan Planning Group, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of Combined Industrial/Commercial on approximately 15.6 acres (7-0-0). CEQA: Addendum to a Negative Declaration for General Plan amendment File No. GP99-04-04/GP99-T-2. GP07-04-01 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP07-04-01, dated March 21, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated April 4, 2007, transmitting the Planning Commission recommendation.

Public Comment: Mayor Reed opened the public hearing. Russ Grelli, Valmonte Partners I LLC, spoke in favor of the development, but stated that the traffic situation should be properly considered and suggested that a community park along the creek should be considered.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the public hearing was closed, and the Staff/Planning recommendation was tentatively approved. (10-0.)

- 10.4 (a) Public Hearing on the certification of a final Environmental Impact Report (E.I.R.) for San José Flea Market prepared for General Plan amendments and Planned Development Rezoning (File Nos. GP/GPT06-04-01/PDC03-108) to change the land use designation from Combined Industrial/Commercial on 24.3 acres to Transit Corridor Residential (20+ DU/AC) with a Flexible Land Use Boundary; to increase building height limit from 120 feet to 150 feet on a portion of the site south of Berryessa Road; to add a Major Collector roadway through the project site between Mabury and Berryessa Roads; and a Planned Development Rezoning to allow up to 2,818 residential dwelling units and 365,622 square feet of commercial/industrial/office uses on a 120.3-acre site.**
- (b) Tentative approval of General Plan amendment requests to change the Land Use/ Transportation Diagram designations and text of the General Plan as follows:**
- (1) Redesignate 10 acres of Combined Industrial/Commercial south of Berryessa Road to Transit Corridor Residential (20+ du/ac) on 9 acres and Public Park/Open Space on 1 acre.**
 - (2) Revise the General Plan Urban Design Policies to increase the maximum building height limit from 120 feet to 150 feet between Mabury/Berryessa Roads west of Coyote Creek and east of the Union Pacific Railroad tracks.**
 - (3) Revise Appendix E of the General Plan to downgrade Sierra Road from a four-lane Major Collector to a two-lane Major Collector from Flickinger Avenue to Berryessa Road and to add a Major Collector on the site from Mabury to Berryessa Road. The current Medium Density Residential (8-16 DU/AC) on 8 acres and Public Park/Open Space on 22.8 acres will remain unchanged (Bumb & Associates, Owner/Applicant).**

Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of:

- (a) Redesignating 10 acres of Combined Industrial/Commercial land south of Berryessa Road to Transit Corridor Residential (20+ du/ac) on 9 acres and Public Park/Open Space on 1 acre;**
- (b) Increasing the maximum building height limit from 120 feet to 150 feet between Mabury and Berryessa Roads west of Coyote Creek and east of the Union Pacific Railroad tracks; and**
- (c) Revising Appendix E of the General Plan to downgrade Sierra Road from a four-lane Major Collector to a two-lane Major Collector from Flickinger Avenue to Berryessa Road and to add a Major Collector on the site from Mabury to Berryessa Road. (7-0-0).**

CEQA: Resolution to be adopted.

GP06-04-01/GPT06-04-01 – District 4

10.4 (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-04-01/GPT06-04-01, dated March 23, 2007, recommending an alternative recommendation in lieu of the Applicant's proposal. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 9, 2007, recommending adoption of a resolution to certify the Council has read and considered the Final EIR; The Final EIR has been completed in compliance with CEQA; The Final EIR reflects the independent judgment and analysis of the City of San José and the Director of Planning, Building and Code Enforcement shall transmit copies of the Final EIR to the Applicant and to any other decision-making body of the City of San José for the project. (3) Memorandum from the Planning Commission Secretary Joseph Horwedel, dated April 4, 2007, transmitting the Planning Commission recommendation. (4) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated April 13, 2007, transmitting a letter from the Berryessa Union School District providing their most current information regarding student generation from recent housing developments as served by the School District. (5) Proof of Publication of Notice of Public Hearing, executed on March 14, 2007, submitted by the City Clerk. (6) Seven letters from the public dated April 24, 2007, regarding the subject General Plan Amendment.

Principal Planner Andrew Crabtree presented an overview of the project.

Director of Planning, Building and Code Enforcement Joseph Horwedel and Superintendent Marc Liebman, Berryessa Union School District responded to Council questions.

Public Comment: Mayor Reed opened the public hearing.

Marc Liebman, Berryessa Union School District, Appellant of the EIR appeal, asked that Council consider that there is a requirement under CEQA that the Planning Department consult with the School District and that did not happen. He stated he is not opposed to The EIR or to the project. He asked that the Final EIR recommend the ability to house students in the best possible way.

Erik Schoennauer, representing the Applicant, spoke in favor of the project and stated that the Owner is doing the right thing, denoting 3.5 acres for the school and 5.5 acres of open space for a public park and responded to Council questions.

Speaking in opposition to the proposed General Plan Amendment were: Troy Curtis, Marisol Ramos, Raul Zapata, Khoa Do, Alma Gonzalez, Jose de Jesus Munoz, Dona Chipana, Manuel Dineda, Antonio Gonzalez, Jesus Banoa, Tom Fink, William Garbett, Leila Forowil, Amy Nghi, Marian Duran, Christopher Lepe, Mark Anthony Medeiros, Ada Marquez, Kerri Hamilton, Citizens for Environmental Economic Justice, David Madrid, Clarisse Domingo, Silicon Valley DeBug, Ed Rast, Tong Suk Kim, Huong Nguyen, Young Park, June Vien, Guat Bui, Tinh Nguyen, Tan Suk, Huong Huynh and Namsu Kim.

10.4 (Cont'd.)

Council discussion followed. Erik Schoennauer responded to Council questions regarding the proposed project.

Motion 10.4(a): Council Member Liccardo moved to deny the appeal and uphold the EIR. Council Member Constant seconded the motion.

Council Member Williams requested Staff perform additional outreach to inform the public of their rights.

Council Member Liccardo amended the motion and read in the record, “The Final Environment Impact Report for this proposed project identified significant and unavoidable environmental impacts. However, as described in more detail in the proposed resolution of the EIR findings for this item there is no feasible way to lessen or avoid these significant effects for this project and approval of this proposed project is anticipated to result in several benefits to the City. All of these benefits outweigh the significant, unavoidable environmental impacts identified in the Final EIR for this project”. Council Member Constant accepted the amendment.

Council Member Campos requested Staff bring forward a study session on this project.

Motion 10.4(b): Council Member Constant moved tentative approval of the General Plan Amendment Change. Council Member Liccardo seconded the motion.

Vice Mayor Cortese requested that Staff reconcile the net PDO requirements prior to coming back with the zoning, so there is no encroachment between the School District boundaries or rights to property and the PDO requirements, and vice versa. Council Member Constant and Council Member Liccardo accepted the amendment.

Council Member Oliverio objected and expressed concern about losing the industrial land.

Action: On a call for the question, the motion carried, the public hearing was closed, the EIR was upheld and the Appeal was denied; the Staff/Planning recommendation was tentatively approved, the Statement of Overriding Considerations was read into the record and [CEQA Resolution No. 73738](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives and Adopting a Statement of Overriding Considerations for the Flea Market General Plan Amendment Project, For Which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act of 1970, as Amended”, was adopted, with Staff directed to reconcile the net PDO requirements prior to coming back with the zoning, so there is no encroachment between the School District boundaries or rights to property and the PDO requirements, and vice versa. (9-1. Noes: Oliverio.)

- 10.5 Tentative denial of General Plan amendment request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial on 4 acres to Neighborhood/Community Commercial on 0.8 acres and High Density Residential (25-50 DU/AC) on 3.2 acres on an approximately 4-acre site located at the south side of Murphy Avenue (1172 Murphy Avenue), approximately 550 feet easterly of the intersection of Murphy Avenue and Oakland Road (Bob Dhillon, Owner/Anthony Ho, Applicant). Director of Planning, Building and Code Enforcement and Planning Commission recommended denial of Neighborhood/Community Commercial on 0.8 acres and High Density Residential (25-50 DU/AC) on 3.2 acres (5-1-0-1, Campos opposed and Dhillon abstained). CEQA: Negative Declaration.**

GP05-04-09 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-04-09, dated March 7, 2007, recommending no change to the General Plan (denial). (2) Planning Commission Secretary Joseph Horwedel, dated April 4, 2007, transmitting the Planning Commission recommendation of denial.

Mayor Reed opened the public hearing

Public Comments: Bob Dhillon, Owner, outlined the General Plan Amendment Request to change the Land Use/Transportation Diagram designation from Combined Industrial/Commercial on 4 acres to Neighborhood/Community Commercial on 0.8 acres and High Density Residential (25-50 DU/AC) on 3.2 acres on an approximately 4-acre site located at the south side of Murphy Avenue.

Speaking in favor of the General Plan Amendment Request were: Stan So, Simi Ketterer, John Zamora and Paul Stewart. Mayor Reed closed the public hearing.

Director of Planning, Building and Code Enforcement Joseph Horwedel and Principal Planner Andrew Crabtree responded to Council questions.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried, the public hearing was closed, and the Staff/Planning recommendation to deny was tentatively approved. (9-1. Noes: Cortese.)

- 10.6 (a) Public Hearing on the certification of a final Environmental Impact Report (E.I.R.) for the General Plan amendments File Nos. GP05-06-01/GP05-06-02/GPT05-06-02 and Planned Development Zoning File Nos. PDC06-024 and PDC06-025.**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 16, 2007, submitted by the City Clerk.

Action: Item 10.6(a) was dropped.

- 10.6 (b) Tentative approval of General Plan amendment request to change the Land Use/Transportation Diagram designations from Industrial Park and Combined Industrial/Commercial to High Density Residential (25–50 DU/AC) on approximately 21.5 acres. An amendment to the Midtown Specific Plan to reflect the land use designation change from Combined Industrial/Commercial to High Density Residential (25–50 DU/AC) on approximately 0.3 acres on APN 264-09-047 is included. (Owner/Applicant: Sobrato Development Company; Contact: Tim Steele). Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of High Density Residential (25–50 DU/AC) on approximately 21.5 acres. (6-1-0) Zito opposed. SNI: Burbank/Del Monte. CEQA: Resolution to be adopted.**

GP05-06-01/GP05-06-02/GPT05-06-02 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP05-06-01/GP05-06-02/GPT05-06-02, dated March 22, 2007, recommending approval. (2) Planning Commission Secretary Joseph Horwedel, dated April 4, 2007, transmitting the Planning Commission recommendation.

Mayor Reed opened the public hearing.

Eric Morley, Sobrato Development Company (Owner/Applicant), presented a brief outline of the proposed project.

Council discussion followed.

Public Comments: Speaking in favor of the General Plan Amendment request were: Michael La Rocca, Sherman Oaks Neighborhood Association, Randi Kinman, Burbank/Del Monte Neighborhood Association, Ed Rast, Willow Glen Neighborhood Association and Harvey Darnell.

Eric Morley, Sobrato Development Company, concluded with a brief review of the merits of the project.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, the Staff/Planning recommendation was tentatively approved; Council Member Oliverio read the Statement of Overriding Considerations into the record, “The Final Environment Impact Report for this proposed project identified significant and unavoidable environmental impacts. However, as described in more detail in the proposed resolution of the EIR findings for this item there is no feasible way to lessen or avoid these significant effects for this project and approval of this proposed project is anticipated to result in several benefits to the City. All of these benefits outweigh the significant, unavoidable environmental impacts identified in the Final EIR for this project”, and [CEQA Resolution No. 73729](#), entitled: “A Resolution of the Council of the City of San José Making Certain Findings Concerning Alternatives

10.6 (Cont'd.)

and Adopting a Statement of Overriding Considerations for the Race Street General Plan Amendments Project (File Nos. GP05-06-01/GP05-06-02) for which an Environmental Impact Report has been Prepared in Accordance with the California Environmental Quality Act of 1970, as Amended”, was adopted. (10-0.)

10.7 Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Light Industrial to Combined Industrial/Commercial on an approximately 3.6-acre site located on the east side of Senter Road, approximately 600 feet south of Wool Creek Drive (2222 and 2232 Senter Road). (E L S Properties Corporation, Owner/Green Valley Corporation, Applicant). Director of Planning, Building and Code Enforcement recommended denial and Planning Commission recommended approval of Combined Industrial/Commercial on approximately 3.6 acres (7-0-0). SNI: Tully-Senter. CEQA: Negative Declaration.

GP06-07-04 – District 7

(Continued from 12/12/06 – Item 10.3)

Documents Filed: (1) Memorandum from Council Member Nguyen, dated April 24, 2007, recommending approval of the Planning Commission recommendation. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. GP06-07-04, dated November 28, 2006, recommending no change to the General Plan (denial). (3) Planning Commission Secretary Joseph Horwedel, dated April 4, 2007, transmitting the Planning Commission recommendation of approval of the General Plan amendment request.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Council Member Nguyen moved approval of the Planning Commission recommendation of Combined Industrial Commercial on approximately 3.6 acres. Council Member Williams seconded the motion.

Council Member Liccardo objected to the motion, stating support for the Staff position on this industrial land conversion but because the scarcity of industrial land in the city poses serious obstacles to economic development in this city expressed concerns about retail uses that are likely to generate complaints (i.e., noise, fumes, truck traffic), about pre-existing industrial uses that are nearby and those incompatibilities could further drive industrial companies out of the City.

Action: On a call for the question, the motion carried and the Planning recommendation was tentatively approved. (9-1. Noes: Liccardo.)

10.8 Adoption of a resolution approving all General Plan amendment actions taken on April 17 and April 24, 2007 and adoption of CEQA resolutions. (Planning, Building and Code Enforcement)

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on March 16, 2007, submitted by the City Clerk.

Action: Upon motion by Council Member Constant, seconded by Vice Mayor Cortese and carried unanimously, [Resolution No. 73740](#), entitled: “A Resolution of the Council of the City of San José Specifying the Council’s Determinations on Proposed Amendments to the San José 2020 General Plan Pursuant to Title 18 of the San José Municipal Code”, was adopted. (10-0.)

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance rezoning the real property located on a portion of block bounded by The Alameda, Emory Street, Naglee Avenue, and Morse Street; east side of Morse Street, approximately 150 feet northerly of Naglee Avenue (744 Morse St) from R-1-8 Single Family Residence Zoning District and A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow relocation and rehabilitation of one historic single-family residence (Structure of Merit), two new single-family detached residences, and parking lot reconfiguration for the Central YMCA on a 4.18 gross acre site (Metropolitan YMCA & LeBaron Family Trust, Owners; Mark DeMattei, Developer). CEQA: Mitigated Negative Declaration.
PDC06-100 - District 6**

Action: Continued to May 1, 2007, per Administration.

OPEN FORUM

- (1) Danny Garza spoke in support of preserving the Five Wounds Church against the construction of BART in the future, as it is a historical landmark.

ADJOURNMENT

The Council of the City of San José was adjourned at 10:51 p.m. in memory Najoo Junck, who served as the City's Senior Commission Secretary with the Office on Aging in Parks, Recreation and Neighborhood Services for fifteen years; and in memory of Gertrude Welch, a very active member of the San José community, interested in affordable housing issues as well as many other social issues.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/4-24-07MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>